File No. 289-04.
Serial Nos. 17+18.

1904-05

GENERAL AND REVENUE SECRETARIAT.

(284)

Part A: Manuscript
for

October 1905—

Serial Nos. 17+18

Countersignature to the Travelling Allowance bills of the District and Sessions Judges.

ORIGINAL

1905.

FILE No. 289 OF 1904-05.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

PROCEEDINGS OF THE GENERAL AND REVENUE DEPARTMENT

SALARIES AND ALLOWANCES

OCTOBER

"A" Collection Serial Nos. 17—18

Countersignature to the travelling allowance bill of the District and Sessions Judges.

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18	To the Registrar of the Chief Court and Comptroller, No. Fl. 2552-3, dated the 20th October 1905. Directs that the following note be added to Article 610 of the Mysore Service Regulations, and requests the Comptroller to issue an addendum accordingly:— "NOTE.—Bills requiring the countersignature of the Chief Court may be countersigned either by the Chief Judge or by one of the other Judges, or under the orders of the Chief Court by the Registrar."		1

1905.

GENERAL AND REVENUE SECRETARIAT.

(SALARIES AND ALLOWANCES.)

FOR OCTOBER

NOTES

FILE No. 239 OF 1904-05.

Travelling allowance bills of the District and Sessions Judge of Bangalore and his establishment.

From the Registrar of the Chief Court of Mysore, No. 73—4, dated the 4th July 1905.

Resubmits the travelling allowance bill of Mr. S. R. Subbaraya Iyer, District and Sessions Judge, for March 1905 for reconsideration with the observation that for the reasons stated in the letter the bill may be accepted on the countersignature of the Puisne Judge, and requests a ruling authorising the Registrar or any of the Judges of the Chief Court to countersign such bills in future.

The collection containing the Order No. Fl. 8107—S. & A. 289-04-16, dated the 29th May 1905, which states that the Audit Office will not accept the travelling allowance bill of the District Judges except on the countersignature of the Chief Judge, is put up. Regulations I of 1884 and II of 1890 are also put up.

S. & A. 289-04, Sl. Nos. 13 to 16.

M. T.
10-7-05.

B. B. A.
10-7-05.

The apparent and recognized head of the Chief Court under Section 4, Regulation I of 1884, is the Chief Judge of that Court, and as such he is the ostensible Head of the Judicial Department. Under Section 5 of the said Regulation, he is entitled to rank and take precedence before the other Judges without reference to the date of appointment. For Judicial purposes the Chief Judge and other Judges have certain powers which are prescribed by the Regulation and rules passed thereunder. The Chief Court as an aggregate body also exercises certain powers under the Regulation. For the purposes of countersigning travelling allowance bills it has been the invariable practice heretofore to require in the case of the bills of the District and Sessions Judges, the countersignature of the Chief Judge, and whether during vacation or otherwise such bills were always countersigned by the Chief Judge himself before audit. Now for the first time it is represented that under Article 615 the Controlling Officer is not the Chief Judge alone but the Chief Court, and that during the vacation of the Chief Court the Judge remaining at head-quarters represents the Chief Judge and that his countersignature is equivalent to that of the Chief Judge. It is also represented that as the Puisne Judges are not subordinate to the Chief Judge but exercise full powers coordinately with him, the proviso in Article 615 of the Mysore Service Regulations, that a Controlling Officer may not delegate the duty of countersignature to a subordinate does not apply in this case.

However plausible the above argument may be, if the existing practice is to be done away with and the proposal made by the Chief Court is to be accepted, an amendment has to be made to Articles 610 to 615 to the effect that in the case of the Chief Court the Controlling Officer is either the Chief Judge or any of the Judges, whose countersignature may be accepted under the provisions of the said articles, or the Registrar may be empowered to countersign the bills prefixing the words " By order of the Chief Court."

T. SATYARAJA CHETTY.
11-7-05.

Forwarded to the Comptroller for favor of opinion.

B. K. VENKATA VARADA IYENGAR,
12-7-05.

1. I do not think there is any use in continuing this academic discussion of the question.

2. The present Chief Judge is a European officer and I doubt whether we shall gain anything by insisting upon his signature on the bills. He must to a great extent depend on his brother Judges or on the Registrar to come to a correct decision as to the necessity or otherwise of any travelling.

3. The simplest course, therefore will be to rule that in cases requiring countersignature of the Chief Court on travelling allowance bills under present rules, the Registrar of the Court should take orders of the Chief Judge or other presiding Judge for the time being and should countersign the bills "under orders."

N. G. BASU.
19-7-05.

If the course indicated in para 3 above is to be adopted, an Addendum to Mysore Service Regulations should be issued.

The Comptroller may be asked to submit it for approval.

T. SATYARAJA CHETTY.
20-7-05.

Submitted to the Dewan Saheb for orders, through the 1st Councillor. As per rules, as they stand at present, the Head of the Department, which in this case is the Chief Judge, should countersign the bills. If, as the Comptroller says, a middle course should be adopted because the present Chief Judge is a European, an addition has to be made to the rules as suggested by the Assistant Secretary.

B. K. VENKATA VARADA IYENGAR.
21-7-05.

The Chief Court is a corporate body. Countersignature either by the Chief Judge or by one of the other Judges, or even by the Registrar under the orders of the Chief Court, seems sufficient. The Chief Judge alone has not been appointed Controlling Officer for the purposes of Article 610. I agree in the main with the Chief Court and the Comptroller. A note somewhat as follows to Article 610 may, if considered necessary, be made, though I am not quite satisfied that there is any such necessity :—"NOTE.—Bills requiring the countersignature of the Chief Court, may be countersigned either by the Chief Judge, or by one of the other Judges or under the orders of the Chief Court, by the Registrar." I am not sure that all this discussion and correspondence in so formal a matter as this was really necessary.

C. S.
21-7-05.

There is no objection to make the addition. Circulate to Council with a draft addendum for disposal by Circulation.

P. N. K.
12-9-05.

For a draft addendum.

B. K. VENKATA VARADA IYENGAR.
17-9-05.

Submitted with a draft to Secretary.

M. S.
19-9-05.
N. K.
20-9-05.

T. SATYARAJA CHETTY.
20-9-05.

To the Registrar for circulation.

M. N. KRISHNA RAO,
21-9-05.

B. K. VENKATA VARADA IYENGAR.
20-9-05.

Circulated to Councillors.

By Order,

M. N. KRISHNA RAO,
22-9-05.

B. K. VENKATA VARADA IYENGAR.
Secretary.

Seen and opinion recorded.

1. Rajamantra Pravina C. Sreenivasiengar, Esq.,
First Councillor.

2. Rao Bahadur C. Madiah, Esq.,
Second Councillor.

The addition proposed may be approved but I would stop with "one of the other Judges."

If the Registrar is to countersign bills under the orders of the Chief Court, other Heads of Departments who have attached to the office Assistants and Registrars may come forward and ask for similar authority.

C. MADIAH.
24-9-05.

Submitted to His Highness.

In admitting claims preferred in travelling allowance bills which require countersignature under Article 610 of the Mysore Service Regulations, it has been the practice, in the case of the bills of the District and Sessions Judges, to require the countersignature of the Chief Judge.

The Travelling Allowance Bill of the District and Sessions Judge of Bangalore for March 1905, which had been countersigned by the vacation Judge Mr. H. V. Nanjundayya instead of the Chief Judge, having been returned to the Chief Court, that Court have now represented that under Article 615 of the Service Regulations, the Controlling Officer is the Chief Court and not the Chief Judge; and that during the vacation, the Judge remaining at head-quarters represents the Chief Judge, and that his countersignature is equivalent to that of the Chief Judge. The Chief Court also request that a ruling may be issued authorizing any of the Judges or the Registrar to countersign such bills.

The Comptroller is of the opinion that the simplest course is to rule that the Registrar should take the orders of the Chief Judge or other presiding Judge for the time being and countersign the bills "under orders."

Before the present practice could be done away with, an amendment of Article 610 of the Service Regulations will be necessary; and with this view it is proposed to add the following note to that article to meet the requirements of such cases :—

> Note to Article 610.—Bills requiring the countersignature of the Chief Court may be countersigned either by the Chief Judge or by one of the other Judges, or under the orders of the Chief Court by the Registrar.

The Second Councillor is however of the opinion that the latter portion of the Note vesting the Registrar with the power of countersigning bills may be done away with, as such an arrangement would give rise to applications of similar nature from the other Heads of Departments. The Registrar of the Chief Court is not in a position analogous to the Assistants of other Heads of Departments. The Registrar has a statutory recognition and is the signatory for the Court which consists of a plurality of Judges.

The proposed note may be approved.

P. N. K.
3-10-05.

Approved.

K. R. W.
10-10-05.

Order accordingly.

P. N. K.
11-10-05.

Issue.

B. K. V.
16-10-05.

To the Comptroller to the Government of His Highness the Maharaja of Mysore and the Registrar of the Chief Court of Mysore, No. Fl. 2552-3, dated the 20th October 1905.

Directs that the following note be added to Article 610 of the Mysore Service Regulations and requests the Comptroller to issue an addendum accordingly :—

> NOTE.—Bills requiring the countersignature of the Chief Court may be countersigned by the Chief Judge or by one of the other Judges or under the orders of the Chief Court by the Registrar.

Countersignature to the Travelling Allowance Bills of the District and Sessions Judges.

FILE NO. 289 OF 1904-05.

From V. A. Rajaratna Mudaliar, Esq., Registrar of the Chief Court of Mysore, to B. K. Venkata Varada Iyengar Esq., Secretary to the Government of Mysore, General and Revenue Department, letter No. 73—4, dated the 4th July 1905.

I am directed to re-submit the travelling allowance bill returned with your letter No. Fl. 8107—S. & A. 289-04-16, dated the 29th May last, on the ground that the countersignature should be by the Chief Judge, the Controlling Officer of the Department, and to request that the matter may be reconsidered. **Serial No. 17.**

2. The bill in question was signed by the vacation Judge who was necessarily the Controlling Officer of the Department, the Chief Judge and the other Puisne Judge being, at the time, absent and beyond jurisdiction. As such Controlling Officer, he had power to act in all matters in which there was no express limitation of his authority. The vacation Judge cannot be regarded as a subordinate working by delegation under Article 615 of the Mysore Service Regulations. It is apparently on this principle of "non-subordination" that a Puisne Judge's bills for travelling allowance, etc., are not countersigned by the Chief Judge under Article 610. It may also be urged that as the Government has not expressly appointed the Chief Judge as the Head of the Judicial Department or the Controlling Officer under Article 610, it is not correct to say that he alone can countersign the travelling allowance bills.

3. The reason why the travelling allowance bills of Judges of the Courts subordinate to the Chief Court have to be countersigned is because, such Courts are, under Section 10 of the Chief Court Regulation subject to the control and superintendence of the Chief Court. Even when the Chief Judge signs a bill it is only as representing the Chief Court collectively (See Section 18 of the Chief Court Regulation). Unless the Government pass an express order under Section 18 empowering the Chief Judge alone to exercise the powers vested in the Chief Court in this matter, it is open, the Judges think, to the Judges constituting the Chief Court to regulate the procedure of the Court in this respect.

4. Under Section 8 of the Chief Court Regulation, the Chief Court is competent to regulate the duties of the officers of the Court, Registrar, &c. In the same manner as the Registrar is empowered to carry on the correspondence of the Court with the Government and other officers, on behalf of the Court, it is competent to the Court to empower him to sign for the Chief Court or Chief Judge. When the Regulation authorizes a Judge or the Registrar or the Deputy Registrar to sign decrees, orders and processes issued by the Chief Court, there appears to be no reason why the duty of countersigning travelling allowance bills should not be imposed on the Registrar after the bills are approved in due course by the Chief Judge or other Judges. In this connection, reference is invited to correction slip No. 72 authorizing Deputy Commissioners to countersign travelling allowance bills of Amildars and others though they are not Controlling Officers or Heads of Departments.

5. Much stress is laid in your letter on the practice which has hitherto obtained of the Chief Judge countersigning such bills. If this practice, however, is not supported by any imperative rule or law there appears to be no reason why it should not be changed. The argument that there can be only one person as Head of a Department or Controlling Officer does not seem sustainable so far as the Chief Court is concerned, as under the Chief Court Regulation, such control is vested in the "Chief Court" which includes all the Judges of the Court. Besides, under Section 13 of the General Clauses Regulation, III of 1899, the singular number may include the plural, as in the present instance. It may perhaps be said that the General Clauses Regulation cannot apply to the Mysore Service Regulations, but it is a question, whether the latter cannot be regarded as a body of rules prescribed as law in Mysore under Section 3, Clause 12 of Regulation III of 1899. Whether that is so or not, the generally accepted canon of interpretation must be taken to apply to the Service Regulations also.

6. I am directed accordingly to request that the Government may be pleased to issue a ruling that the Registrar or any of the Judges of the Chief Court may countersign travelling allowance bills under Article 610 and I am to add that all the Judges are agreed as to the views herein expressed.

To the Comptroller to the Government of His Highness the Maharaja of Mysore, to the Registrar of the Chief Court of Mysore, No. Fl. 2552-3, dated 20th October 1905.

The Government of His Highness the Maharaja of Mysore are pleased to direct that the following note be added to Article 610 of the Mysore Service Regulations:— **Serial No. 18.**

NOTE.—Bills requiring the countersignature of the Chief Court may be countersigned either by the Chief Judge or by one of the other Judges or under the orders of the Chief Court by the Registrar. The Comptroller is requested to issue an *addendum* to the Regulations accordingly.

B. K. VENKATA VARADA IYENGAR,
Secretary.

G. R. S. 11 | 1904-05

GENERAL AND REVENUE SECRETARIAT

(S+A)

NOTES.

File. No 289

FILE HEADING.

A bills of the District & Sessions Judge of Bangalore and Mo Sotabb

From

The Registrar of the Chief Court of Mysore.

No. 73/4 Dated the 4/7/05 Received 7/7/05.

Diary No. 95 | Enclos. 1 bill | Spare Copies. - | Serial No. 17.

BRIEF ABSTRACT OF LETTER.

Dt & Sessions Judge,

Resubmits the T. A. bill of Mr S. R. Subbaraya Iyer ~~bill~~ for March 05 for reconsideration with the observation that for the reasons stated in the letter the bill may be accepted on the countersignature of the private judge and requests a ruling authorising the Registrar in lieu of the Judges of the Chief Court to countersign such accounts in future.

NOTES AND ORDERS.

S+A 289-04
Sl nos 13 to 16

The collection containing the order No. 7 L 8107/S+A 289-04-16 of the 29/5/05 which states that the audit office will not accept the T.A. bill of the Dt Judges except on the counter-signature of the Chief Judge is put up.

Regulations I & II of 1890 are also put up.

~~Submitted for orders~~

NOTES—First sheet.

10/7

B. R. K.

G.R.S. 12]

General and Revenue Secretariat.

S&A File No. 289 of 1904

Serial No.

The apparent and recognized head of Chief Court under sec 4 Regulation 2 of 1884 is the Chief Judge of that Court, and as such he is the executive head of the judicial Department. Under sec 5 of the said Regulation he is entitled to rank and take precedence before the other Judges without reference to the date of appointment. In general matters the Chief Judge and the Judges have certain powers which are provided by the Regulation and Rules framed thereunder. The Chief Court as an collective body also exercises certain powers under the Regulation. In the purposes of countersigning travelling allowance bills it has been the invariable practice hitherto to require in the case of the bills of the Judges and certain Judges the countersignature of the Chief Judge and whether during vacation or otherwise such bills were always countersigned by the Chief Judge himself before audit. Now for the first time it is represented that under art 616 the travelling officer is not the Chief Judge alone but the Chief Court and that during the vacation of the Chief Court the Judge remaining at Head Quarters

NOTE—Contn. sheet.

MGCPB—20,000—1-11-04

Serial No.

represents the Chief Jude and that the countersignature is equivalent to that of the Chief Jude. It is also represented that the Puisne Judges are not subordinate to the Chief Jude but exercise full powers coordinately with him, the provision in art. 615 of the H. C. Regulations that a controlling officer may not delegate the duty of countersignature to a subordinate does not apply in this case.

However plausible the above argument may be, if the existing practice is to be and the proposal made by the Chief Court is to be accepted an amendment has to be made to articles 610 to 615 with effect that in the case of the Chief Court the Controlling officer is either the Chief Jude or any of the Judges whose countersignature may be accepted under the provisions of the said articles, or the Registrar may be empowered to countersign the bills preferring the words "by order of the Chief Court".

~~not to be sent~~
T. Satyanarayana Chetty ~~H~~

Forwarded to the Comptroller for favor of opinion 12-1-1908

Accountant [illegible] Iyengar

Secy

NOTE—Contn. sheet

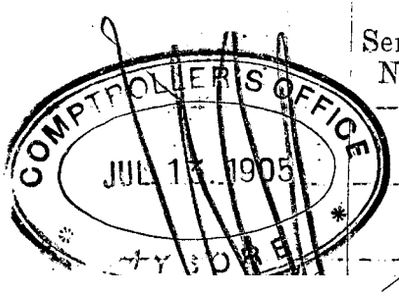
MGCPB—50,000—17-2-05

G.R.S. 12]

General and Revenue Secretariat.

S/A File No. 289 of 1904

Serial No.



I do not think there is any use in continuing this academic discussion of the question.

2. The present Chief Judge is a busy man and I doubt whether we shall gain anything by insisting upon his signature on the bills. He must to a great extent depend on his brother judges or on the registrar to come to a correct decision as to the necessity or otherwise of any travelling.

3. The simplest course therefore will be to rule that in cases requiring countersignature of the chief ~~Judge~~ Court T/A Bills under present rules the Registrar of the Court should take orders of the chief Judge or other presiding Judge for the time being and should ~~sign~~ countersign the Bills "under orders".

19.7.05

If the course indicated in para 3 above is to be adopted an addition to Fd. S. Regulations should be issued. The Comptroller may be called to submit it for approval.

J. Satyaraja Chetty. 20.7.05

Submitted to the Dewan Saheb for orders thro' the 1st Councillor. As per rules, as they stand

NOTE—Contn. sheet

MGCPB—50,000—17-2-05

Serial No.

at present, the Hd of the dept, who, in this case, the Chief Judge, should countersign the bills. If, as the Comptroller says, a middle course should be adopted because the present Chief Judge is a Europ an addition has to be made to the rule as suggested by the Hon'ble Legal Member.

B. K. Venkata Varadachariar
21.7.1905

21/7/05

The Chief Court is a corporate body. Cannot by nature act by the Chief Judge or by one of the other Judges, or even by the Registrar under the orders of the Chief Court, unless sufficiently authorised. The Chief Judge alone has not been appointed Controlling Officer for the purposes of article 610. I agree in the main with the Chief Court & the Comptroller note somewhat as follows. Article 610 may if considered necessary be made, though I am not quite satisfied that there is any such necessity. Bills requiring the counter-

Note d

Note.—Contn. sheet.

G.R.S. 12]

General and Revenue Secretariat.

File No. 289 of 1904-5

Serial No.

Signature of the Chief Court may be countersigned either by the Chief Judge, or by one of the other Judges, or under the Orders of the Chief Court by the Registrar. I am not sure that all this correspondence is so formal a matter as it was really necessary. BL

21-7-05

21/7/05

21.7.05

Memo to Cabinet to make the addition. Cir

20.7.05

which could with a draft addendum for Dy C by Cr

12.IX.05

Draft

To a draft addendum

K. Venkatarangaiya Iyengar.

17.9.1905

Submitted with a draft letter

yrs

19/9/05

D. Sabhanayaka Chetty.

20.9.05

20.IX.05

To The Registrar for circulation

K. Venkatarangaiya Iyengar

20/9/1905

Registrar M.N. Krishna Rao

21-9-05

NOTE—Contn. sheet

MGCPB—50,000—17-2-05

GENERAL AND REVENUE SECRETARIAT.

Council matter for disposal by Circulation.

Subject.

The addition of a note to article 610 of the Mysore service Regulations authorizing that the bills requiring the Countersignature of the Chief Court may be countersigned either by the Chief Judge or by one of the other Judges or under the orders of the Chief Court by the Registrar

Circulated to Councillors.

M. N. Krishna Rao
Regd
22nd Sept. 1905

By Order,
M. Varadarajaiyangar
Secretary.

---

1. Raja Mantra Prawina
C. Sreenivasaiyangar Esq
First Councillor

Seen and opinion reserved

2. Rao Bahadur
C. Madhava Rao Esq
Second Councillor

The addition proposed may be approved. It would stop with one of the other Judges of the Registrar in the cumbrances of the bills under the orders of the C. Court other Heads of Depts who have attached to the office and Registrars who may come forward and ask for similar authority. I would

G.R. S.

Submitted to His Highness

In admitting claims preferred in Travelling Allowance bills which require countersignature under article 610 of the Mysore Service Regulations, it has been the practice, in the case of the bills of the District and Sessions Judges, to require the countersignature of the Chief Judge.

The travelling allowance bill of the District and Sessions Judge of Bangalore for March 1905, which had been countersigned by the vacation Judge Mr. H.V. Nanjundayya instead of the Chief Judge, having been returned to the Chief Court, that Court have now represented that under article 615 of the Service Regulations, the Controlling Officer is the Chief Court and not the Chief Judge; and that during the vacation, the Judge remaining at Head Quarters represents the Chief Judge, and that his countersignature is equivalent to that of the Chief Judge. The Chief Court also request that a ruling may be issued authorizing any of the Judges or the Registrar to countersign such bills.

The Comptroller is of the opinion that the simplest course is to rule that the Registrar should take the orders of the Chief Judge or other presiding Judge for the time being and countersign the bills "under orders".

Before the present practice could be done away with, an amendment of article 610 of the Service Regulations will be necessary; and with this view it is proposed to add the following note to that article to meet the requirements of such cases:-

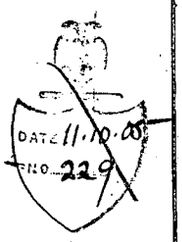
> Note to article 610.- Bills requiring the countersignature of the Chief Court may be countersigned either by the Chief Judge or by one of the other Judges, or under the orders of the Chief Court by the Registrar.

The Second Councillor is however of the opinion that the latter portion of the Note vesting the Registrar with the power of countersigning bills may be done away with, as such an arrangement would give rise to applications of similar nature from the other Heads of Departments. The Registrar of the Chief Court is not in a position analogous to the Assistants of other Heads of Departments. The Registrar has a statutory recognition and is the signatory for the Court which consits of a plurality of Judges.

Record of Case submitted for the orders of His Highness the Maharaja.

Subject.

Addition of a note to article 610 of the Mysore Service Regulations authorizing the countersignature of certain Travelling Allowance Bills by one of the Judges of the Chief Court or the Registrar.



Order.

Approved

~~KRW~~

10/10/05

G.R.S. 12]
General and Revenue Secretariat.

GA File No. 289 of 1904

Serial No.

To The Comptroller to the Govt of H.H the Maharaja of Mysore & The Registrar of the Chief Court of Mysore

No: 7L 2552-3 dt the 20/10/05-

Directs that the following note be added to art 610 of the M.S.R and ~~the Comptroller is requested to amend~~ requests the Comptroller to issue an addendum accordingly:-

Note:- Bills requiring the countersignature of the Chief Court may be countersigned by the Chief Judge or by one of the other judges or under the orders of the Chief Court by the Registrar.

NOTE—Contn. sheet

MGCPB—50,000—17-2-05

Bangalore,
4th July 1905.

From,

V.A.Rajaratna Mudaliar Esquire,

Registrar of the Chief Court of Mysore.

To,

B.K.Venkatavaradiengar Esquire,

Secretary to the Government of Mysore,

General and Revenue Departments.

Serial no 17

Sir, Letter no 73-4 dated 4 July 1905 Serial no 17

I am directed to re-submit the travelling allowance bill returned with your letter No.F.1.8107/S.&A.289-04-16 dated the 29th May last, on the ground that the counter-signature should be by the Chief Judge, the Controlling officer of the Department, and to request that the matter may be re-considered.

2 The bill in question was signed by the vacation Judge who was necessarily the Controlling officer of the Department the Chief Judge and the other Puisne Judge being, at the time, absent and beyond jurisdiction. As such Controlling Officer, he had power to act in all matters in which there was no express limitation of his authority. The vacation Judge cannot be regarded as a Subordinate working by delegation under Article 615 of the Mysore Service Regulations. It is apparently on this principle of 'non subordination' that a Puisne Judge's bills for travelling allowance &c, are not countersigned by the Chief Judge under Article 610. It may also be urged that as the Government has not expressly appointed the Chief Judge as the Head of the Judicial Department or the Controlling officer under Article 610, it is not correct to say that he alone can countersign the travelling allowance bills.

The

Departments.

Much stress is laid in your letter on the practice which has hitherto obtained of the Chief Judge countersigning such bills. If this practice, however, is not supported by any imperative rule or law there appears to be no reason why it should not be changed. The argument that there can be only one person as head of a Department or Controlling officer does not seem sustainable so far as the Chief Court is concerned, as under the Chief Court Regulation, such control is vested in the 'Chief Court' which includes all the Judges of the Court. Besides, under section 13 of the General Clauses Regulation III of 1899, the singular number may include the plural, as in the present instance. It may perhaps be said that the General Clauses Regulation cannot apply to the Mysore Service Regulations, but it is a question whether the latter cannot be regarded as a body of rules prescribed as law in Mysore under section 3 Clause 12 of Regulation III of 1899. Whether that is so or not, the generally accepted canon of interpretation must be taken to apply to the Service Regulations also.

6 I am directed accordingly to request that the Government may be pleased to issue a ruling that the Registrar or any of the Judges of the Chief Court may countersign travelling allowance bills under Article 610 and I am to add that all the Judges are agreed as to the views herein expressed.

I have the honour to be,

Sir,

Your most obedient servant,

Registrar

To the Comptroller to the Govt.
of His Highness the Maharaja of
Mysore, to the ~~Registrar~~ Registrar
of the Chief Court in Mysore,
No. H. 255 2-3 Dated 20th October.

G.R.S. 28]

File No. 289-04
Serial No. 18

Diary No. of letter replied to 95

Proceedings of the Government of His Highness the Maharaja of Mysore.

GENERAL AND REVENUE SECRETARIAT.
(I/A)

, the 190

Date of issue Mr. B.K. Venkatarama Iyer

Signed by 20-X-05

READ.— correspondence ending with Serial No. 18
Letter No. 73/4 dt. 4/7/05 from the Registrar of the Chief Court in Mysore, resubmitting the travelling allowance bill of Mr. S.R. Subbaraya Iyer Sessions Judge for March 1905 ~~for reconsideration~~ ~~to the observation that~~ and requesting for the reasons stated in the letter that the bill may be accepted on the Co-ordinate signature of one of the puisne judges and

ORDER THEREON.— No.

intend of the Chief Justice

over

SUBJECT

MGCPB—9,000—11-9-04

Copied FR 18/10.

~~that~~
~~requesting~~ a ruling may be issued
authorising the Registrar
or any of the judges of
the Chief Court to
countersign the ~~such bills~~
~~travelling~~ allowance bills under
art. 610 of the M. S. Regulations.

Order thereon No:- H. 2552-3 : -10 -1

The Government
of His Highness the
Maharaja of Mysore
are pleased to direct
that the following ~~note~~ note be added
~~be added~~ ~~or note~~ to ~~the~~ article
610 of the Mysore Service
Regulations.

Note:- Bills requiring
the countersignature
of the Chief Court may
be countersigned
either by the Chief Judge
or by one of the other
~~Other~~ judges or under
the orders of the

G.R.S. 27]

GENERAL AND REVENUE SECRETARIAT.

(*Continuation Sheet draft form.*)

Chief Court of the
Registrar. The Comptroller
is requested to issue an addendum
to the Regulations amending

B.K.V. 20/9/1905
Secretary

To the Comptroller to the
Govt of H. H. the Maharaja
of Mysore.

The Registrar of the Chief
Court of Mysore
~~with the bill~~

Dups
Mysore N.F.
26-IX-05

ORIGINAL

1905-06

FILE No. 620 OF 1905-06.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

PROCEEDINGS OF THE GENERAL AND REVENUE DEPARTMENT

SALARIES AND ALLOWANCES

MAY 1906

"A" Collection Serial Nos. 1—3

Grant of privilege leave preparatory to retirement.

TABLE OF CONTENTS.

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1	From the Comptroller, letter No. 5434—Spl. 28, dated 30th March 1906. Suggests that for reasons given the existing Codal rule about privilege leave preparatory to retirement may be withdrawn and that if however the Government desires that the rules should not be wholly withdrawn, its application should for the present be restricted only to officers drawing a pay of Rs. 250 and under at the time of their retirement.		1
2	To the Comptroller, the Deputy Commissioners of Districts and the Heads of Departments, Order No. Fl. 8190—235, dated 26th May 1906. Directs that the practice of granting privilege leave preparatory to retirement be discontinued in future and the Codal Rules be altered accordingly, and adds that this rule does not apply to those who retire from 1st July 1906.		2
3	To the Compiler, *Mysore Gazette*, No. Fl. 8456, dated 8th June 1906. Notifies the above.		2

1905-06.

GENERAL AND REVENUE SECRETARIAT.

SALARIES AND ALLOWANCES.

FOR MAY 1906

NOTES.

FILE No. 620 of 1905-06.

Grant of privilege leave preparatory to retirement.

From the Comptroller No. 5434—Spl. 28, dated 30th March 1906.

Suggests that, for reasons given, the existing Code rule about privilege leave preparatory to retirement may be withdrawn and that if however the Government desires that the rule should not be wholly withdrawn, its application should for the present be restricted only to officers drawing a pay of Rs. 250 or less at the time of their retirement.

Submitted for orders.

R. S. R.
5-4-06.

His Highness' order on G. M. File No. 234 of 1905 :—"The situation resulting from the order of the 20th April 1903 is not satisfactory and the present opportunity is a suitable one for reconsidering the whole question. The file should be resubmitted to me after orders issue."

The points for consideration are :—

i. The bearing of the G. O. No. 1507-136—P & A. 1396 of the 20th April 1903 on the existing rules of the Mysore Service Regulations.

ii. The modifications that are necessary in the Regulations to bring the Government Order into agreement with the Codal rules.

iii. The present proposal of the Comptroller, either to

(a) wholly withdraw the rule allowing privilege leave preparatory to retirement or

(b) to restrict its application to cases of officers drawing a pay of Rs. 250 or less

N. K.
9-4-06.

Submitted to Secretary.

M. N. KRISHNA RAO.
9-4-06.

Submitted to the Dewan Saheb for orders.

B. K. VENKATA VARADA IYENGAR.
9-4-06.

Submitted to His Highness.

The file relating to the grant of privilege leave preparatory to retirement is resubmitted as directed in His Highness' order dated the 24th March, together with the opinion of the Comptroller since received.

V P. MADHAVA RAO.
14-4-06.

Order.

My present feeling is in favor of abolishing the concession altogether, for the reasons stated by the Comptroller. But I shall be glad of the opinion of the Dewan and Council.

K. R. W.
His Highness the Maharaja of Mysore.
17-4-06.

Circulate to Councillors for favor of their opinion.

V. P. M.
18-4-06

Circulated to Councillors

By Order,
B. K. VENKATA VARADA IYENGAR,
Secretary.
20-4-06.

I agree with the late First Councillor. In cases in which privilege leave preparatory to retirement is granted, the successor should be regarded as but officiating during the period of such leave.

2. My impression is that the practice in question began with the Government of the day ignoring in one or two special cases the stipulation contained in Article 442 of the Service Regulations under which an officer may not retire within three months of privilege leave. In these cases the officer was permitted (or perhaps compelled) to retire when the exigencies of the service required that he should retire irrespective of the interval between date of retirement and date of expiry of last privilege leave. In these cases (and perhaps also in analogous cases which immediately followed) the leave was still within the period reckoned as service. In this there was nothing absolutely wrong because if an officer may retire at the end of furlough he may as well retire at the end of privilege leave also. The more especially as furlough does not count as service for pension whereas privilege leave does count. If a concession of the kind in question were withheld, an officer would probably be driven to apply for privilege leave say six months before the completion of his term (Article 188 of the Service Regulations). If the leave be refused, the hard case would come under the exceptions which the Comptroller would still allow (para 9 of his letter.)

3. From granting privilege leave just before the completion of an officer's term, it was but one step to granting that leave just after the completion of that term.

4. In the vast majority of cases, officers have no such fixed time of service. The 55 years' rule and the 60 years' rule and the question of extending or determining an officer's service thereunder are not taken into consideration till the said age is reached or even exceeded. In these cases, therefore, as time does not allow of the privilege leave at credit being taken within the term of service, it has come to be granted just outside it.

5. It is often a proud boast of public servants who have served the State long and well that they have served it so long without taking any leave of absence. The proposed abrogation of the concession in question would place such officers at a disadvantage in comparison with those who take a frequent holiday. For example, an officer who has served the State from 1876 to 1906 without taking any privilege leave would come to be placed on a par with another who has also served from 1876 to 1906, but has taken 33 months' privilege leave in the interval.

6. All things considered, the view expressed in para 1 of this note commends itself as appropriate.

T. ANANDA RAO,
First Councillor.
30-4-06.

The rule regarding the grant of privilege leave preparatory to retirement has no parallel either in British India or elsewhere. Is there any justification for such a rule? Privilege leave should be taken as it falls due, the maximum being three months. Such leave is granted to enable an officer to recruit his health by rest and change so that he may render efficient service to the State He cannot retire within three months of returning from privilege leave as the State should get some benefit from his return to duty after the privilege leave. The intention is obvious that the leave should be taken as it becomes due and not allowed to accumulate beyond three months. If an officer does not avail himself of the leave in due time, it must be taken that he did not need it in his own interests.

The rule now in question had its origin in a lax administration of the leave rules. It is contended that the vacancies caused by retirement should be filled up by acting incumbents until the expiry of the privilege leave I can say from my experience in the districts that such an arrangement is attended with serious inconvenience. The acting man will get less pay than the permanent man and the permanent arrangement cannot be thought of until after the expiration of the leave; when an officer is retired from service, his permanent successor should be ready to take his place and carry on the work. Then again, why should the State be called on to incur additional charges by way of leave allowances?

While on this subject I would point out that the necessity of taking the leave at one's credit should be more fully brought home to our officers. They do not fully avail themselves of the liberal intentions of Government in regard to leave. I confess I am not in sympathy with the proud boast of an officer who has taken no leave during his long service. Arduous work necessitates the taking of leave at certain intervals and in the case of the officer aforementioned it may well be doubted whether the nature of his duties or the manner of his performing

it rendered the taking of leave necessary. For my part I would decidedly esteem an officer who has taken 33 months' privilege leave in 30 years to his compeer who has taken none at all. I think that the Comptroller's view is quite sound and may be accepted. I would make no distinction in the case of officers drawing Rs. 250 and under.

K. P. PUTTANNA CHETTY,
Second Councillor.
3-5-06.

Submitted to the Dewan Saheb.

B. K. VENKATA VARADA IYENGAR.
4-5-06.

Submitted to His Highness.

I agree with the Comptroller that the grant of privilege leave preparatory to retirement as a matter of course in all cases, is objectionable in principle, and inconsistent with the spirit of the Mysore Service Regulations. As observed by him, privilege leave is only required to enable an officer to have some respite from work and to recoup his health and strength before he returns to duty, and is evidently uncalled for in the case of an officer on the eve of retirement. The practice which has been allowed to spring up in Mysore in this respect is at variance with what obtains in British India. I do not see any good grounds for making an exception in the case of officials drawing pay below Rs. 250 as suggested by the Comptroller.

The Order of 20th April 1903, No. 15097-136—P. & A. 1396, which created the innovation, may be cancelled.

The First and Second Councillors, it will be seen, differ in their views on this question. The former is apparently for continuing the present practice and for treating the successor to an officer granted preparatory leave as merely officiating during the period of such leave. The inconveniences of such an arrangement are pointed out in the Second Councillor's note.

As the sudden withdrawal of an existing concession, without previous notice to those likely to be affected thereby, is likely to cause hardship, the order need not be applied in the case of those who are retired this year from 1st July next.

I am dealing now with the cases of those officers whom the Comptroller has reported as already superannuated, or about to become such, and shall place the papers before His Highness after ascertaining the views of the Councillors.

V. P. MADHAVA RAO,
8-5-06.

Order.

Approved.

K. R. W.
His Highness the Maharaja of Mysore.
9-5 06.

Issue orders accordingly.

V. P. M.
9-5-06.

Draft submitted to Secretary.

N.

B K.
16-5-06.

M. N. KRISHNA RAO,
18-5-06.

Passed.

B. K. VENKATA VARADA IYENGAR.
21-5-06.

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2. *To the Comptroller, the Deputy Commissioners of Districts and the Heads of Departments, Order No. Fl. 8190-235, dated 26th May 1906.*

Directs that the practice of granting privilege leave preparatory to retirement be discontinued in future. This rule does not apply to those who retire from 1st July 1906.

Grant of privilege leave preparatory to retirement.

FILE No. 620 OF 1905-06.

From Rai N. G. Basu Bahadur, M.A., Comptroller of Mysore, Bangalore,
To B. K. Venkata Varada Iyengar, Esq., Secretary to the Government of Mysore, General and Revenue Departments, Letter No. 5434—Spl. 28, dated the 30th March 1906.

Serial No. 1.

I have the honour to acknowledge the receipt of your endorsement No. G. 4606, dated the 28th March 1906, in which privilege leave preparatory to retirement is sanctioned to the retiring Councillors with the observation that such modification in the provisions of the Mysore Service Regulations may be proposed, as may be necessary to reconcile the bearing of Government Order No. 1507-136—P. & A. 1396 of the 20th April 1903 therewith.

2. I do not clearly understand what is meant by the above observation, but what I understand is that His Highness's Government has sanctioned the privilege leave to the Councillors and the simultaneous permanent appointment of their successors as very special exceptions to Articles 192 and 233 (*b*) of the Mysore Regulations, and that proposals are invited for such modifications in the existing rules as may be considered expedient.

3. Articles 192 and 233 (*b*) are substantive rules of the Code, and no general exceptions to them can be made without striking at the root of the fundamental principles of the Regulations. It will be seen from Government Order No. Fl. 4769-73, dated the 29th January 1906 that it has hitherto been recognised that no breach of Article 233 (*b*) of the Regulations can be permitted to help a retiring officer to get a sort of bonus in the shape of privilege leave allowances. If anything, the present intention of Government is to make the rule stricter and not to make further concessions.

4. Before explaining my views on the case I beg to bring to notice that the rule about privilege leave preparatory to retirement is a new one for Mysore. In British India privilege leave cannot be given preparatory to retirement and rightly so because leave is allowed to an officer to give some respite from work, and an officer who is allowed to retire from service and is relieved of work for the rest of his life does not stand in need of any such respite and cannot claim leave on full pay under the Regulations.

5. It would appear that originally the British Indian Regulations were in force here as regards these privilege leave rules but a practice arose of disregarding the Code rules and of irregularly granting privilege leave preparatory to retirement. The Audit office connived at the practice, and when this irregular practice had been established for a sufficiently long time, it was made the basis of a Code rule, and it is now found necessary to make special exceptions to the fundamental rules in the Regulations, to support a Code rule which had such an illegitimate origin, and to allow high officers the privilege which they had been expecting to enjoy at the time of their retirement.

6. I therefore respectfully submit that the existing Code rule about privilege leave preparatory to retirement may be withdrawn. There is absolutely no special peculiarity in the conditions of the Mysore Service which justifies an exception in the present case, from the rules in British India, and even if there was any reason for an exception, the form in which the concession is given is most objectionable.

7. I have stated above, that this privilege leave preparatory to retirement is a sort of bonus to the retiring officers. It is a sort of indirect remuneration given indiscriminately to all officers irrespective of the quality of their services and being an indirect remuneration really costs the State many times more than if His Highness rewarded special cases of merit by a direct bonus in addition to pension.

8. It has been my unpleasant duty to object to these indirect forms of easements in the course of the last fifteen months, and I am afraid it will be found that my representations have not produced much effect. Only recently I represented to Government that in the case of a Secretariat officer who had been granted a bonus of Rs. 1,500 the indirect remuneration otherwise given to him of about Rs. 2,600 may be added to the bonus to save my department from the effect of inconvenient precedents, but the Government did not consider my proposal favourably.

9. There may be special cases in which some concession in the form of privilege leave preparatory to retirement may be justified. For instance, when an officer in the course of his active service is not allowed to avail of leave on full pay to which he was entitled, under a formal order of Government, some claim may be made for special treatment, but such cases are very rare and the Code does not recognise the right of any officer to leave earned by him. In any case, such exceptional treatment should form part of the unwritten law of the land and should not be brought upon the published Regulations at all. It should really be only the special prerogative of the Throne to allow special exception to rules and practice in force in British India in very special circumstances.

Grant of privilege leave preparatory to retirement.

10. If on a consideration of the present representation His Highness's Government is of opinion that a rule which has been so long in force should not be wholly withdrawn, but should be retained in some form, I would suggest that its application should for the present be restricted only to officers drawing a pay of Rs. 250 or less at the time of their retirement. I make this suggestion because it is in the case of officers on poor pay that they do not get privilege leave when they want it during service, and two or three months' full pay at the time of their retirement would be a substantial help to them. In their case, also, the rule can be worked without involving a breach of the substantive rules in the Regulations.

To the Comptroller to the Government of His Highness the Maharaja of Mysore, the other Heads of Departments and the Deputy Commissioners of Districts, No. Fl. 8190-235—S. & A. 620-05-20, dated 26th May 1906.

Serial No. 2.

The Government agree with the Comptroller that the grant of privilege leave preparatory to retirement as a matter of course in all cases is objectionable in principle and inconsistent with the spirit of the Mysore Service Regulations. Privilege leave is given to enable an officer to have some respite from work and to recoup his health and strength that he may on return from leave perform his duties efficiently and is evidently uncalled for in the case of an officer who retires.

2. Order No. 1507-136—P. & A. 1396, dated the 20th April 1903, which created the innovation, is accordingly cancelled and the Comptroller is requested to issue a correction to the Mysore Service Regulations cancelling the rule in question.

3. As, however, the sudden withdrawal of an existing concession without previous notice is likely to cause hardship, this order will not be applied to those who retire this year from the 1st July 1906.

Notification No. Fl. 8456—S. & A. 620-05-3, dated Mysore, 8th June 1906.

Serial No. 3.

The above Order of the Government of His Highness the Maharaja is published for general information:—

Proceedings of the Government of His Highness the Maharaja of Mysore.

READ—

Letter No. 5434, dated the 30th March 1906, from the Comptroller to the Government of His Highness the Maharaja of Mysore, stating that the rule permitting the grant of privilege leave preparatory to retirement is in force in Mysore only, that in British India privilege leave is not given preparatory to retirement because it is allowed to an officer to give him some respite from work, and an officer who is allowed to retire from service and is relieved of work for the rest of his life does not stand in need of any such respite and cannot claim leave on full pay under the Regulations, and suggesting that the existing rule permitting the grant of privilege leave preparatory to retirement may be withdrawn.

Government Order No. 15097-136, P. & A. 1396, dated the 20th April 1903, directing that such privilege leave as an officer may be entitled to at the time of his retirement be granted to him preparatory to his retirement from the service.

No. Fl. 8190-235—S. & A. 620-05-2, dated the 26th May 1906.

ORDER THEREON.—The Government agree with the Comptroller that the grant of privilege leave preparatory to retirement as a matter of course in all cases is objectionable in principle and inconsistent with the spirit of the Mysore Service Regulations. Privilege leave is given to enable an officer to have some respite from work and to recoup his health and strength so that he may on return from leave perform his duties efficiently, and is evidently uncalled for in the case of an officer who retires.

2. Order No. 1507-136—P. & A. 1396, dated the 20th April 1903, which created the innovation, is accordingly cancelled and the Comptroller is requested to issue a correction to the Mysore Service Regulations cancelling the rule in question.

3. As, however, the sudden withdrawal of an existing concession without previous notice is likely to cause hardship, this order will not be applied to those who retire this year from the 1st July 1906.

B. K. VENKATA VARADA IYENGAR,
Secretary.

G. R. S. 11] 190 5-06

GENERAL AND REVENUE SECRETARIAT.

(Sta)

NOTES.

File No. 62

FILE HEADING.

Gratuity to the deceased Mr Appadorai Mudaliar Asst. Surgeon.

From The Comptroller

No. 5811/609 Dated 20-4-06 Received 20-4-06

Diary No 4395 | Enclos. 3 | Spare Copies. | Serial No. 3

BRIEF ABSTRACT OF LETTER.

States that the G.O. No 2092-3 d 19-9-05 does not formally retire Mr Appadorai Mudr and that therefore he cannot report on the gratuity applⁿ of Mr Appadorai Mudr received from the Senior Surgeon.

NOTES AND ORDERS.

Draft subm to Secy
DPH
28/4/1906
MK

Rec'd 29-4-06

Passed 2.5.1906

Ag 4 Secs

Notes—First sheet.

MGCPB—30,000—17 2·05

G.R.S. 12]

General and Revenue Secretariat.

SHA File No. 62 of 1905-06.

Serial No.	
4	To The Comptroller to the Govt of H H the Maharaja of Mysore - No 7454 dt the 7.5.1906. — States that the late Assistant Surgeon Mr A Appadurai Mudaliar will be considered as having been formally retired from the 29th March 1905 the date on which he produced the medical certificate showing that he was permanently incapacitated for further service.
5	From the Comptroller to the Govt of H H the Maharaja No 6369/693 dt the 16.5.1906 — Says that in a matter of application and interpretation of rules it is not possible for Government to say that the rules have been complied with when as a matter of fact they have not been so complied with and requests to let him know whether Government considers the opinion given in his letter No 5811 dt the 20.4.1906 is wrong and if it is not wrong, on what ground he is required to make a formal report in the Case. Submitted for orders
	In view of all the circumstances of the deceased Assistant Surgeon's case, it seems to have been treated as a special one and the payment of such pension or gratuity as he would have got if his retirement was strictly under the rules, authorised.

NOTE—Contn. sheet

GPB—50,000—23-10-05

G.R.S. 12J

General and Revenue Secretariat.

SJA File No. 62 of 1905

Serial No.

The Comptroller was asked to report the amount of pension or gratuity payable according to this decision of Govt. He represents that the order is opposed to the pension rules & this representation has to be Subd. for His Highness' orders, under rule 24 of the "Rules for the G.R.S officers." Subd. to Secy

28/5/06

Mr Appadurai Muvadia applied for permission to retire on the 20th March 1905. The applⁿ was forwarded by the Senior Surgeon on the 6th April. While it was pending before Govt., Mr Appadurai himself died on the 24th April. The case was at first allowed to abate under orders of the late Dewan. The matter having been again urged on Govt by the Senior Surgeon, he was asked on the 19th Septr 1905 to send an applⁿ for pension or gratuity through the Comptroller. It is upon this that the Comptroller argues that the case cannot be reported on as the formal order of retirement has not been passed before the Asst Surgeon's

NOTE—Contn. sheet

GPB—50,000—23-10-05

Serial No.

death.

2 Article 510 does not ~~require the retirement to be formal~~. All that it says is that if the officer died before actually retiring or being discharged, his heirs have no claim. If the deceased had been actually relieved of his duties preliminary to his retirement being formally declared, I think he might fairly be deemed to have been "discharged". Otherwise it is easy to imagine that serious hardship might ensue as the result of inadvertant delays in the office of Govt. in taking up the case.

3 If, however, the ~~interpretation suggested above~~ does not commend itself to Govt., any special relief that Govt. may consider proper to give might be granted under the special power conferred by Rule 408 of the Service Regns.

D Secretariat 2D (V)

22.6.06.

Rec'd 26.6.06.

The spirit & not the letter of the rule should be regarded in deciding this case. The

NOTE—Contn. sheet

GPB—50,000—23 10-05

Serial No.

Order of formal retirements may now be issued.

I agree with the Secretary in the opinion expressed in para 2 above.

W M Hamilton
2d Councillor

25/7/06

11/6/06

1110/26.6.06 26/6/06

Secretary's order
This may be placed before the next meeting of Council

B. O.
C&K
30/7/06

Subd to 1st Councillor for perusal & for kindly bringing up the file at Legislative Council meeting.

1.8.06

Ritchie -

2 The subject was not taken up at last meeting of Council for want of time. It may be brought up at the next meeting

3. Meanwhile it seems desirable to collect precedents if any. It cannot be that there are no precedents in the Medical Dept. Dr Hutton's case is pro-

- barely

GPB—50,000—23 10-05

G.R.S. 12]

General and Revenue Secretariat.

Sta File No. 62 of 1905

Serial No.

- Kadiyone - I received a case of Leprosy arising while Dr Keegan was Servi Surgeon, in which a question under art: 373 was raised, but I am not sure how it was decided - The victim was employed in charge of Medical Stores.

Sd/ [illegible]

Put up available precedents

by [illegible]

6.8.06

The cases of Dr Choksi and of Mr Arnold are put up.

Dr Choksi died from the effects of blood-poisoning contracted in the discharge of his duties. His mother-in-law by the first wife applied for the grant of an allce of Rs 50/- a month for the maintenance and education of her grand-children (Dr Choksi's children by his 1st wife). This was sanctioned.

Mr Arnold was partially de-prived of the use of his left eye owing to the explosion of

NOTE—Contn. sheet

GPB—50,000—23-10-05

Serial No.

a bottle of ether which he was about to open. It was held that the injury sustained was not such as to entitle him to an extraordinary pension.

In the present case, Mr. Appa-durai Mudaliar applied for retirement and before formal order sanctioning his retirement was received, he died. The Q. Are his heirs entitled to receive any gratuity for services rendered by him?

The principle that if an officer dies after applying for retirement, his legal heirs are entitled to gratuity or pension for services rendered by him, ~~notwithstanding~~ notwithstanding formal order ~~of~~ retiring him are not passed before his death, was upheld in the case of Mahamad Ibrahim late Mutchi of the Bangalore Dt. Treasury. (Vide Sta 107 of 03-04 herewith put up). The precedents referred to by the Councillor in page 4 of the notes in ~~this~~ above file are put up with another ref^ce regarding gratuity to the

NOTE—Contn. sheet

GPB—50,000—23-10-05

G.R.S. 12]
General and Revenue Secretariat.

Sta File No. 62 of 190 5-06

Serial No.

Police constable Shaik Hossain of the Chittagong Zilla and Subdl to the Dewan on 17-7-06).
Subdl for orders.
DWB
17-8-06. mmk 18-8-06
WR Get these precedents from the Dewans Office for reference. In the meantime, return the file to the Council clerk for inclusion in the Agenda for next meeting.
[illegible] 18.8.06
mm 20/8/06

Regd. Agent to D.O
WR

NOTE—Contn. sheet

GPB—50,000—23-10-05

C.1144 2253/1896

Extract from the Proceedings of the 149th Meeting of the Council of His Highness the Maharaja, held at Bangalore on the 7th September 1906.

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x x x x

IV. Subject.- (Clause v of the Schedule.)

Question as to whether a gratuity may be sanctioned to the late Mr.Appadorai Mudaliyar, Assistant Surgeon.

OPINION.

The informality in regard to the medical certificate of permanent incapacity for further service in the case of Mr. Appadorai Mudaliyar has already been virtually condoned by Government. The question now is whether Mr.Appadorai Mudaliyar died before or after "actually retiring or being discharged" for the purpose of Article 510 of the Service Regulations. This Article does not, it will be seen, require that the retirement should be formal, or that it should be formally declared by Government to have taken place. If the deceased had been actually relieved of his duties preliminary to his being ordered to be retired by competent authority in due course later on, then he might, in the opinion of the Council, be deemed to have been discharged within the meaning of the expression as used in the Article. If this were not so, it is easy to conceive of cases in which serious hardship might be caused as the result of inadvertent delays for which a deceased officer might in no way have been responsible.

To prevent doubts, the following explanation may be added to Article 510 :-

"An officer dying after production of a medical certifi-
"cate of incapacity for further service, and after being
"relieved of the duties of his office with a view to
"retirement, shall be deemed to have been discharged for
"the purposes of this Article, even if he had not been
"actually retired."

With these observations, the Comptroller may be asked to proceed to report on the application for gratuity on behalf of the heirs of the late Mr.Appadorai Mudaliyar.

x x x x

Signed. V.P.Madhava Rao.

Dewan of Mysore.

"E x t r a c t"

Secretary to Government.

Submitted to His Highness.

Mr. Appadurai Mudaliar was an Assistant Surgeon in the State Medical Service, and while operating on calves in the Vaccine Institute, he contracted an incurable disease called "Pemphighus", on which account he remained on leave on medical certificate and leave without allowances for 3 years from May 1902. On 20th March 1905 (while on leave), he applied for permission to retire on such gratuity as he was entitled to and his application was accompanied by a medical certificate granted by Dr.Palpu, testifying to his permanent incapacity for further service.

The Senior Surgeon in submitting this application strongly supported the applicant's prayer and recommended him both for a gratuity and a subsistence allowance in consideration of the special circumstances of the case. While the application was pending before Government Mr. Appadurai Mudaliar died on the 24th April 1905, and the question having again been urged on Government by the Senior Surgeon, he was called upon to send up the usual application for

pension or gratuity through the Comptroller. The Comptroller however objects to report on the case, as no formal order of retirement had been passed previous to the applicant's death.

The question now for consideration is whether in view of the circumstances above adverted to the Assistant Surgeon's heirs are entitled to any gratuity for the services rendered by the deceased.

The appended extract from the Council proceedings discusses the aspects of the rules bearing on the case. The provisions of the Mysore Service Regulations are not clear on this point and to obviate undue hardship resulting from delays for which the applicants may not be directly answerable, it is proposed to add an explanation to article 510 of the Service Regulations in the terms specified in the appended Council proceedings. This may be approved.

The Comptroller will be asked to report on the case in due course in the light of these observations.

29/9/[illegible]

Record of Cases submitted for the Orders of His Highness the Maharaja.

Subject.

Gratuity to the late Mr.Appadurai Mudliyar Assistant Surgeon, and the addition of an explanation to Article 510 of the Mysore Service Regulations.

300.

Order.

Approved
~~KRW~~
25/9/06

Dewan's order

Please issue orders accordingly
BO
CSB
1/10/06

State the facts briefly & pass an order as in the Council Proceedings

Issued 3/10/06

G.R.S. 12]

General and Revenue Secretariat.

SRA File No. 62 of 1905

Serial No.	
6	To the Comptroller and the Senior Surgeon & Sanitary Commr. Order no. H. 2786-7 & 19.10.06. Adds an explanatory note to Art 538 of the M.S.R and requests the Comptrol to report on the gratuity application of Mr. Appaiswai Mudaliar, late an Assistant Surgeon.

NOTE—Contn. sheet

GPB—50,000—23-10-05

D. 4395 S&A
62-05

No. S-811-03. Rev 609

OFFICE OF THE COMPTROLLER, MYSORE GOVERNMENT,

Dated Bangalore, the 19 April 1906

FROM

RAI N. G. BASU BAHADUR, M.A.,

COMPTROLLER, MYSORE GOVERNMENT.

To

B.K. Venkatavarada Iyengar, Esq.,

SECRETARY TO THE GOVERNMENT OF MYSORE,

Revenue and General DEPARTMENT.

SIR,

Adverting to Government Proceedings No. 2092-3/S & A.62-05-2 dated 19th September 1905 and Senior Surgeon's letter No. 9740/E.3 dated 9/10th April 1906 submitting through me a gratuity application on behalf of the heirs of the late Assistant Surgeon Mr. Appadurai Mudaliar, I have the honour to state that the Government Proceedings above referred to does not formally retire him and as the Assistant Surgeon died without being formally retired, his heirs have no claim whatever against Government vide Article 510 Mysore Service Regulations.

2 Under the above circumstances I cannot report upon the case.

3. The Senior Surgeon's letter and its enclosures are herewith forwarded for such action as the Government may deem fit to take.

I have the honour to be,

Sir,

Your most obedient servant,

N. G. Basu

Comptroller.

Thro: The Comptroller
Mysore &
1906 Bangalore

From Lt: Col: J. Smyth M.S. I.M.S.
Offg: The Senior Surgeon and
Sanitary Commissioner,
Mysore Government,
Bangalore.

To

B. K. Venkataradiengar Esqr.

Dated

Despatched Secy: to the Govt: of Mysore

Received Genl: & Rev: Depts: Bangalore

General No. G. 740
No.

Enclosure No. 3

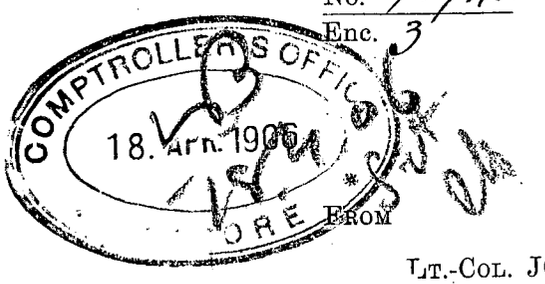
Sir, Forwarding the application for gratuity with service Register on behalf of Asstt: Surgeon the late Mr. D. Bipparaur Hoodey & requesting to sanction the gratuity.

Through, The Comptroller of Mysore

Office of Senior Surgeon and Sanitary Commissioner

Mysore Government,

No. G.740
Enc. 3



Dated, Bangalore, 9/10.4.1 *1906.*

FROM

LT.-COL. JOHN SMYTH, M.D., I.M.S.,
Senior Surgeon and Sanitary Commissioner
with the Government of H. H. the Maharaja of Mysore,
BANGALORE.

To

B.K.Venkatavaradiengar Esq.
Secretary to the Government of
His Highness the Maharaja of Mysore
General and Revenue Departments
Bangalore.

SIR,

With reference to the Proceedings of the Government of H.H. the Maharaja of Mysore and order thereon No. Fl 2092-3/ S.A. 62-05-2 dated 19th September 05, I have the honor to forward the accompanying application for gratuity with Service Register, on behalf of Assistant Surgeon the late Mr.A.Appadurai Mudaliar and to request that H.H. Government will be pleased to sanction the gratuity at an early date, as the bereaved family is put to much difficulties for want of funds after the demise of the Assistant Surgeon

2.) An affidavit on a rupee stamp paper duly attested by a Magistrate, showing the name & description of the surviving claimants is also herewith forwarded as desired.

I have the honor to be
Sir,
Your most obedient servant
By Order

For Offg: Senior Surgeon & Sany:Comm

G.R.S. 26]

Sta File No. 62

Serial No. (4)

Diary No. of letter replied to 4395

No. H 7454

General and Revenue Secretariat

(N)

, *the* 7-5-1906

Date of issue 10-

Signed by W. B. V. Venkata Varadayya

To

The Comptroller

Sir

Adverting to your letter No. 5811 Pen. 609 dated the 20th April 1906, I am directed to state that the late Asst. Surgeon Mr. A. Appadurai Mudaliar will be considered as having been formally retired from the 29th March 1905 the date on which he submitted the medical certificate showing that he was permanently incapacitated for further service and to request you to be so good as to report upon

over.

SUBJECT.

gratuity application
which is herewith sent
together with its accompaniments

I have the

2-5-'06

for Secy

DWB
28/4/06.

mmc
29/4-06

List of enclosures.

Copied by

Examined by

MGCPB—30,000—16-2-05

D.4839
62-05

T/Sam 7/11 693

No. 6369 E/4

OFFICE OF THE COMPTROLLER, MYSORE GOVERNMENT.

Dated Bangalore, the 16th May 1906.

17

FROM

RAI N. G. BASU BAHADUR, M.A.,
COMPTROLLER, MYSORE GOVERNMENT.

To

D. V. Venkatavarda Iyengar Esq.,
SECRETARY TO THE GOVERNMENT OF MYSORE,
General & Revenue DEPARTMENT.

SIR,

I have the honour to acknowledge the receipt of your letter No. FC 7454 S+A 62-05-4 dated the 5th May 1906 in which you say that the late Assistant Surgeon Mr. A. Appa Rao will be considered as having been formally retired from the 29th March 05 and ask me to report on the case.

I beg most respectfully to state that in a matter of application and interpretation of rules, it is not possible for Government to say that the rules have been complied with when as a matter of fact they have not been so complied with.

I shall therefore be obliged if you will kindly let me know whether Government considers the opinion given in my letter No. 5811 dated the

Department.

190 6

From

Rai N. G. Basu Bahadur, M.A.,
Comptroller, Mysore Govt.

To
B. Venkatarama Iyengar, Esq.,
Secretary to the Govt. of Mysore,
Revenue Dept.

Dated
Despatched 3 May
Received
No. 6369 S. pub
673

Subject Matter.

Circulars in regard
to Fl. 7454 of 5 May
1906 - stating that
in a matter of application
and interpretation of rules
it is not possible for Govt
to say that the rule has
been complied with when
as a matter of fact they have
not been so complied with -

20" April 1906 wrong, and if it is not wrong, on what ground I am required to make a formal report in the case.

I have the honor to be,
Sir,
Your most obedient Servant.

L. Bass
Comptroller.

RM

G.R.S. 28]

Fair draft.

SrA **File No.** 62-05

Serial No. 6

Diary No. of letter replied to 4839

Proceedings of the Government of His Highness the Maharaja of Mysore.

GENERAL AND REVENUE SECRETARIAT
(SrA)

, *the* 19 Oct. 1906

Date of issue — do —

Signed by W M Krishna Rao

No. R.2786-7
& 19-Oct-06

READ.—

Correspondence ending with letter No. 6369 of the 16th May 1906 from the Comptroller (693) to the Govt. of H. H the Maharaja of Mysore regarding the retirement of the late Mr. Appadurai Mudaliyar, Assistant Surgeon.

ORDER THEREON.—No. Dated

Mr. Appadurai Mudaliyar while operating on calves in the Vaccine Institute contracted an incurable disease called "Pemphigus". Consequently he remained on leave on medical certificate and leave

over

SUBJECT

without allowances for three years from May 1902. On the 20th March 1905, while on leave, he applied for permission to retire on such gratuity as he was entitled to and his application which was accompanied by a medical certificate granted by Mr. Palpu, testifying to his permanent incapacity for further service, was submitted to Govt. by the Senior Surgeon on the 6th April 1905, and while it was pending before Govt. Mudaliar Mudaliar Appadurai ~~Mudaliar~~ died on the 24th April 1905. The medical certificate not being in accordance with articles 311(a) and 314(a) of the M. S. R, the Govt., on the recommendation of the Senior Surgeon, condoned the informality and requested the Senior Surgeon to submit an application

G.R.S. 27]

GENERAL AND REVENUE SECRETARIAT.

(*Continuation Sheet draft form*)

for gratuity or pension admissible to Mr. Appadurai Mudaliyar through the Comptroller for the orders of Govt. The Comptroller states that as Mr. Appadurai Mudaliyar died without being formally retired, his heirs have no claim whatever against Govt. under Art. 533 M. S. R.

The question now is whether Mr. Appadurai Mudaliyar died before or after "actually retiring or being ~~retired~~ discharged", for the purpose of article 533 of the M. S. R. This article does not require that the retirement should be formal or that it should be formally declared by Govt. to have taken place. If the deceased had been actually relieved of his duties preliminary to his being ordered to be retired by competent authority in due course later on, then he

might, in the opinion of Govt; be deemed to have been discharged within the meaning of the expression as used in the article. If this were not so, it is easy to conceive of cases in which Serious hardship might be caused as the result of inadvertent delays for which a deceased officer might in no way have been responsible.

To prevent ~~?~~ doubts, the following explanation may be added to Art 533 of the M. S. R.

" An officer dying after production of a medical certificate of incapacity for further Service, and after being relieved of the duties of his office with a view to retirement, shall be deemed to have been discharged for the purposes of this Article, even if he had not been actually retired".

The Comptroller is requested to report on the application for gratuity on behalf ~~of the heirs~~ of the late Mr. Appadurai Mudaliar in the light of the

G.R.S. 27]

GENERAL AND REVENUE SECRETARIAT.

(Continuation Sheet draft form.)

above observations.

for Secretary. 13-10-6

To

1) The Comptroller with the application for gratuity and an affidavit.

2) The Senior Surgeon and Sanitary Commr. with the Govt of Mysore

Print

Typed 13.10.06

Rechd/ Revd typed 13.10.06

Posn. 13/10

Proceedings of the Government of His Highness the Maharaja of Mysore, Financial (Salaries and Allowances), dated 19th October 1906.

READ—

Correspondence ending with letter No. 6369—693 of the 16th May 1906, from the Comptroller to the Government of His Highness the Maharaja of Mysore, regarding the retirement of the late Mr. Appadurai Mudaliar, Assistant Surgeon.

No. FL. 2786-7—S. & A. 62-05, DATED BANGALORE, 19TH OCTOBER 1906.

ORDER THEREON.—Mr. Appadurai Mudaliar, while operating on calves in the Vaccine Institute, contracted an incurable disease called "Pemphighus." Consequently he remained on leave on medical certificate, and leave without allowances for three years, from May 1902. On the 20th March 1905, while on leave, he applied for permission to retire on such gratuity as he was entitled to, and his application, which was accompanied by a medical certificate granted by Mr. Palpu, testifying to his permanent incapacity for further service, was submitted to Government by the Senior Surgeon on the 6th April 1905, and while it was pending before Government Mr. Appadurai Mudaliar died on the 24th April 1905. The medical certificate not being in accordance with Articles 311 (*a*) and 314 (*a*) of the Mysore Service Regulations the Government on the recommendation of the Senior Surgeon, condoned the informality and requested the Senior Surgeon to submit an application for gratuity or pension admissible to Mr. Appadurai Mudaliar, through the Comptroller for the orders of Government. The Comptroller states that as Mr. Appadurai Mudaliar died without being formally retired, his heirs have no claim whatever against Government under Article 533, Mysore Service Regulations.

2. The question now is whether Mr. Appadurai Mudaliar died before or after "actually retiring or being discharged," for the purpose of Article 533 of the Mysore Service Regulations. This article does not require that the retirement should be formal or that it should be formally declared by Government to have taken place. If the deceased had been actually relieved of his duties preliminary to his being ordered to be retired by competent authority in due course later on, then he might, in the opinion of Government, be deemed to have been discharged within the meaning of the expression as used in the Article. If this were not so, it is easy to conceive of cases in which serious hardship might be caused as the result of inadvertent delays for which a deceased officer might in no way have been responsible.

3. To prevent doubts, the following explanation may be added to Article 533 of the Mysore Service Regulations :—

> "An officer dying after production of a medical certificate of incapacity for further service, and after being relieved of the duties of his office with a view to retirement, shall be deemed to have been discharged for the purposes of this Article, even if he had not been actually retired."

The Comptroller is requested to report on the application for gratuity on behalf of the late Mr. Appadurai Mudaliar in the light of the above observations.

K. S. CHANDRASEKHARA AIYAR,
Secy. to Govt., Gen. & Rev. Depts.

To—The Comptroller to the Government of His Highness the Maharaja of Mysore, with the application for gratuity and an affidavit.

The Senior Surgeon and Sanitary Commissioner, with the Government of Mysore.

Exd.—C. V.

1906-07

GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE

FINANCIAL
(SALARIES AND ALLOWANCES)

PROCEEDINGS

Dated 19th October 1906

No. Fl. 2786-7
S. & A. 62-05

Adding explanatory note to Article 533 of the Mysore Service Regulations.

GPB—6-11-06—200